

REMARKS

This responds to the Office Action mailed on March 29, 2005, and the references cited therewith.

§101 Rejection of the Claims

Claim 27 was rejected under 35 U.S.C. § 101 for the reason that the claimed invention was directed to non-statutory subject matter. The Office Action states, “[t]he claimed invention is directed to nonfunctional descriptive matter, specifically the phrase ‘when executed’ indicates that the medium contains code per-se. and is, therefore, non-statutory.”

Applicants respectfully submit that claim 27 should not be rejected under 35 U.S.C. § 101 for the reason that the claimed invention is directed to statutory subject matter.

Claim 27 includes the following:

A machine-readable medium that stores a sequence of instructions that, when executed by a machine, cause the machine to: receive an interaction record...

The Manual of Patent Examining Procedure provides the following guidelines:

...”functional descriptive material” consists of data structures and **computer programs** which impart functionality when employed as a computer component (emphasis added).

MPEP, Patentable Subject Matter – Computer-Related Inventions, 2106 IV (B) 1 (paragraph 1; first quote).

....a **claimed computer-readable medium encoded with a computer program** is a computer element which defines structural and functional interrelations between the computer program and the rest of the computer which permit the program’s functionality to be realized, and is thus statutory.

Id., 2106 (B) 1 (a) (paragraph 2; second quote).

Claim 27 requires a machine-readable medium that stores a sequence of instructions that, when executed by a machine, cause the machine to receive an interaction record. Applicant traverses the Office Action's assertion that the instructions on the machine-readable medium of claim 27 are non-functional descriptive matter. The first quote reproduced above identifies "functional descriptive material" as a computer program which imparts functionality when employed as a computer component. Indeed, claim 27 requires a sequence of instructions that cause a machine to receive an interaction record. For this reason, Applicants respectfully submit that claim 27 is not directed to non-functional descriptive material; but rather, to a sequence of instructions that cause a machine to receive an interaction record and therefore to functional descriptive material.

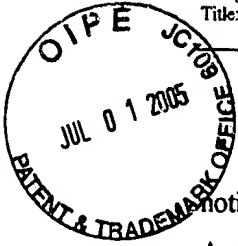
The second quote reproduced above states that a claimed computer-readable medium encoded with a computer program which permits the program's functionality to be realized is statutory. Indeed, claim 27 requires a machine-readable medium that stores a sequence of instructions that, when executed by a machine cause the machine to receive an interaction record. For this reason, Applicants submit that claim 27 is not directed to non-statutory subject matter; but rather, is directed at a claimed computer-readable medium encoded with a computer program which permits the program's functionality to be realized and is therefore statutory.

§112 Rejection of the Claims

Claims 9 and 22 were rejected under 35 U.S.C. § 112, second paragraph, for indefiniteness and for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the words "count" and "replace" are indefinite. Responsive to this rejection Applicants have amended claims 9 and 22 to remove quotation marks from the words "count" and "replace" and add additional limitations. Applicants submit that no new matter has been added to the specification. Support for the amendments may be found may be found throughout the specification and specifically on pages 26, 27 and 28.

Allowable Subject Matter

Claims 1-8, 20-21, 23-26, and 28 were allowed.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney at 408-846-8871 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

RICHARD NEY ET AL.

By their Representatives,

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Date 6/29/2005

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 29 day of June, 2005.

Dawn R. Shaw

Name

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Signature